



*The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Division of Health Care Finance and Policy
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NOTICE OF PUBLIC HEARING

Pursuant to the provisions of M.G.L. c. 118G and in accordance with M.G.L. c. 30A, as amended, a public hearing will be held Tuesday, February 10, 2009, at 10:00 A.M. at the Division of Health Care Finance and Policy ("Division"), Two Boylston Street, 5th floor, Boston, MA relative to the adoption of amendments to:

114.3 CMR 40.00: Rates for Services under M.G.L. c. 152, Worker's Compensation Act

The proposed amendments, effective March 1, 2009, update the billing codes, descriptors and fees for medical services rendered to individuals under M.G.L. c. 152, the Worker's Compensation Act. The statute requires the Division to establish rates, but also provides that the insurer, the employer, and the provider may negotiate a different rate for services. For some services, the proposed changes update the fee schedule to more closely reflect the negotiated amounts already being paid by insurers and employers. The proposed changes include (a) an increase of 10-12% to physician fees, excluding anesthesia and surgical fees; (b) an increase in the anesthesia base unit fee from \$19.86 to \$39.00; (c) an average increase of approximately 51% to the initial evaluation fees for restorative services; (d) an average increase of 5-8% to fees for acupuncture, chiropractor, homemaker, psychology and restorative services; (e) an average increase of 15% in dental fees; and (f) an increase in fees for the most common and/or frequent surgical procedures rendered to injured workers to reflect the average current rates being paid by worker's compensation purchasers. Fees for Durable Medical Equipment (DME) codes and for listed implantable DME codes are set at the fees listed in the 2008 Medicare fee schedule for Massachusetts. For unlisted implantable DME codes, the fee is set at the invoice cost plus a 20% markup not to exceed \$200. The fee for other unlisted DME codes is set at the Medicare fee if there is one, and if there is no Medicare fee, payment is set using the individual consideration pricing method. Payments for freestanding ambulatory surgical centers are updated to reflect Medicare's new payment system using the 2008 Medicare fee schedule for Massachusetts. The amendments also provide that services that are or should be performed in an office setting will be paid at 50% of the fee if there is no professional/technical component. Finally, billing modifier "QK" (anesthesia services) is updated to reflect the current Medicare payment methodology. Modifier "32" is deleted since the 15% premium associated with this modifier has been incorporated into the relevant fees.

The Division is proposing these amendments to update the payment rates and ensure that these rates are consistent with efficiency, economy, and quality of care. The aggregate fiscal impact of the proposed fee changes is estimated to be approximately \$18 million, or 11% of total medical payments based on 2005 expenditures, although the actual fiscal impact cannot be determined as current payment for services may be paid at negotiated rates rather than the current fee schedule. The fiscal impact on governmental purchasers, including cities and towns, will vary depending on the mix and

volume of services purchased. The fiscal impact on individual providers will vary depending on the mix and volume of services provided.

Interested parties are encouraged to submit comments on these amendments. All persons desiring to be heard on this matter are hereby notified to appear at the designated time and place. Persons intending to speak will be afforded an early opportunity to testify if the Division receives notice by 5 p.m. on Monday, February 9, 2009. All others will be heard subsequently. Written comments may be sent to the Division at Two Boylston Street, 5th floor, Boston, MA 02116.

Copies of the regulation are available for inspection and/or purchase at the Division, Two Boylston Street, 5th floor, Boston, MA 02116 or you can access them free of charge in the Regulations section of the Division's web site located at www.mass.gov/dhcfp.